



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**August 28, 2006**

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**SUBJECT:**           **2006-0565** - Appeal of a Decision by the Director of Community Development denying a Tree Removal Permit for a Redwood tree. The property is located at **1633 Edmonton Avenue** in an R-1/S (Low-Density Residential/Single Story) Zoning District.

**REPORT IN BRIEF**

**Existing Site Conditions**           Single Family Residence. Redwood tree located in the front yard

**Surrounding Land Uses**

North                   Single Family Residential

South                   Single Family Residential

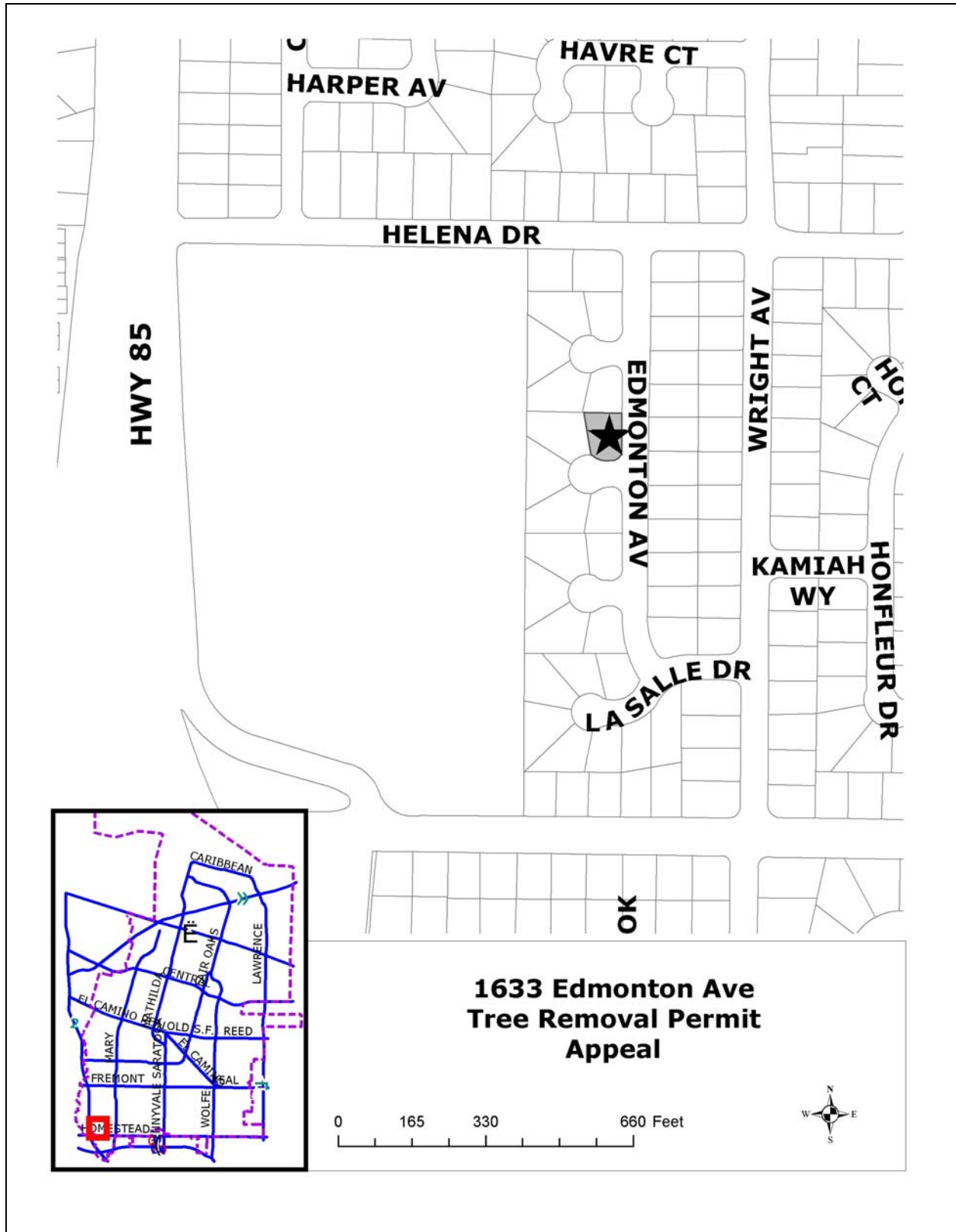
East                    Single Family Residential

West                   Single Family Residential

**Issues**                   Tree Removal Permit - Appeal

**Environmental Status**           A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation**           Deny the appeal and uphold the Decision of the Community Development Director to deny the Tree Removal Permit.



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Low Density Residential	Same	---
<b>Zoning District</b>	R-1/S	Same	R-1/S
<b>Lot Size (s.f.)</b>	7,931	Same	6,000 min.

**ANALYSIS****Description of Proposed Project**

A tree removal permit was requested by the property owner on May 30, 2006 to remove a redwood tree located within the front yard (left side). On June 6, 2006, the City Arborist inspected the tree and recommended denial for the subject tree removal permit (Attachment C – Pictures). Following this recommendation, Planning Division staff visited the site and concurred with the City Arborist's recommendation and notified the applicant of the denial of the Tree Removal Permit on June 16, 2006 (Attachment D – Permit Letter). The applicant has appealed the denial of the Tree Removal Permit (Attachment E – Appeal Letter). A tree removal permit was requested for the same tree and denied by staff and the Planning Commission, by appeal, last year. A new application was filed because there is new information that the applicant feels supports removal of the tree.

**Background**

**Previous Actions on the Site:** The following table summarizes previous planning applications related to the subject site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
2005-0279	Tree Removal Permit for Redwood tree	TRP Appeal to the Planning Commission/ Denial Upheld	10/10/05

The property owner proposed to remove the same Redwood tree in April of 2005. The Tree Removal Permit was denied by the Planning Division in June of 2005 because City staff could not make the required Findings and found alternatives to preserve the tree which are noted in this report. The Planning Commission denied the appeal (4-2 vote) on October 10, 2005. Discussion at

the hearing noted that there was a lack of enough evidence that supported the claim that tree roots caused structural damage. The Planning Commission also stated that alternatives existed to preserve the tree.

### **Environmental Review**

A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 4 Categorical Exemptions includes minor alteration of land.

### **Tree Preservation Ordinance (SMC 19.94)**

On December 12, 1991, the Tree Preservation Ordinance was established in order to preserve mature trees of significant size. Chapter 19.94 of the Sunnyvale Municipal Code defines a 'protected tree' as a tree with circumference equal to or greater than 38 inches when measured four feet, six inches above the ground. A Tree Removal Permit must be obtained prior to removal of a protected tree from private property in any zoning district. An application to remove a tree may be issued if:

1. The tree is diseased or badly damaged;
2. The tree represents a potential hazard to people, structures or other trees;
3. The tree is in sound condition, but restricts the owner's or the neighbor's ability to enjoy reasonable use or economic potential of the property.

On May 9, 2006, the City Council adopted new regulations related to tree preservation. Two new criteria for tree removal are listed in Attachment A, Finding 3(f) & (g).

### **Applicant's Appeal**

The applicant notes the following in their current appeal (Attachment E – Appeal Letter)

- The tree roots disrupt the sewer line of the neighboring property at 1637 Edmonton Avenue as well as the subject property. It has also been noted that the City recommended pipe bursting method would require digging into the neighbor's paving.

### **Applicant's Previous Appeal**

The previous appeal letter dated June 30, 2005 notes the following concerns (Attachment F):

- The tree roots have spread below the house foundation as roots (small and large) have been found in the atrium area.

- Roots have invaded the lateral of the sewer line as indicated by number of sewer service calls noted in the applicant's records.
- Vertical cracks found in two rooms closest to the tree; potential damage to the radiant heating system located in the concrete floor slab of the Eichler house.

### **Staff Discussion**

Much of the following discussion was also noted in the previous appeal. The City Arborist and Planning staff visited the site on two occasions (including the original tree removal request in 2005) and determined that the tree is healthy and structurally safe and has 40-60 years left in its life span. Staff notes the following site conditions:

- The Redwood tree is located above the existing sewer line and approximately 10 feet away from the house (not an ideal location);
- The larger size of the subject tree (as compared to the other redwood tree located on the east side of the driveway which was planted around the same time) is indicative of root intrusion in sewer lines.
- The applicant provides service records as evidence of root intrusion in the lateral of the sewer line;
- Large sized roots (approximately 2-3 inch diameter) have been found in the atrium by the applicant ;
- Smaller fibrous roots exist in the atrium landscaped area.

Roots in lateral/sewer line: The City Arborist suggests that the tree root intrusion in the sewer line lateral on each property may be addressed by replacing the existing sewer line by using a pipe bursting method (also known as the trenchless method). This method would replace the damaged sewer line (which needs replacement due to age and root invasion) and also save the tree. This method of installing underground pipelines is considerably new and has not been used in similar situations in Sunnyvale, but the advantages of this method merit consideration in this situation as well as in similar situations in Sunnyvale.

The following is a brief description and cost analysis of this method.

Trenchless Method: This is an emerging technology in the United States (has been used for over 20 years in Europe) utilized in the rehabilitation of underground infrastructure. In general, this method entails advancement of a cone shaped bursting head that shears/bursts the existing pipe and then installs a new pipe simultaneously. This method is especially advantageous in upsizing, structural replacement of large pipeline infrastructures, and situations where minimal excavations are desired.

Since this method does not entail trenching and removing trees or structures it is also very cost efficient. Staff notes that trenchless lateral and sewerline lateral installation is done by a majority of the plumbing services (commonly advertised in the yellow pages) in this area. A comparative cost analysis of the two methods at the subject site (as noted from the previous appeal) is as follows:

**Cost Analysis**

	<b>Trenchless</b>	<b>With Trenching</b>
Replace lateral (includes City permits & fees)	\$2, 575	\$2,125 (not including cost of tree removal)
Cost of Tree Removal	--	\$6,000
<b>Total Cost of Project</b>	<b>\$2,575</b>	<b>\$8, 125</b> (including cost of tree removal)

Source: Plumbing Estimate – Mike Counsil Plumbing; Tree Removal Estimate (2005) – Biota Tech

The above estimate indicates that the trenchless method is approximately 20% more expensive than the traditional trenching method. However, considering the entire cost of the project when comparing the two alternatives, the trenchless method is four times less expensive as it does not involve the removal of the tree.

Staff notes the need for replacement of laterals is primarily due to the use of older/poor materials and the age leads to leaks. Consequently, the leaks lead to root intrusion which is a common problem in Sunnyvale. New laterals are either made of PVC or VCP (4 inch diameter), which are less susceptible to root intrusion. Staff believes that since the trenchless method is cost effective, saves trees, landscaping and structures, it has merit and can be used in similar situations in Sunnyvale.

Staff also notes that the Tree Preservation Ordinance (19.94.060 (b)) does not specify that infrastructure (such as underground utilities) can be considered when finding tree removal is warranted. Staff believes that infrastructure, such as underground utilities could be considered as part of the structure subject to finding #2 that the tree represents potential hazard.

Roots below foundation of the house: The City Arborist notes that redwood trees have prolific roots. The small fibrous roots in the atrium examined by staff may not be a potential hazard to the house foundation. The large root found (by the applicant) in the atrium is indicative of root growth that could be potentially damaging to the house foundation. The visible vertical cracks may be another symptom of the lifting of the foundation. Due to carpeting on the floor other cracks are not visible. The City Arborist has indicated to the applicant that

additional trenching (by a certified arborist) near the outer edge of the structure could provide additional evidence regarding the roots. No additional trenching has been done to lead to conclusive information regarding a potential hazard to the foundation due to the roots.

Staff believes that the option of placing root barriers near the edge of the foundation is not appropriate in this situation as the roots have already spread below the foundation to the atrium where they will continue to grow and enlarge due to the presence of water and nutrition in the atrium.

**Expected Impact on the Surroundings:** The Redwood tree, approximately 80-100 feet high, is clearly visible from the street within the front yard. Staff finds that the removal of this tree would have a detrimental effect on the overall streetscape.

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### **Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

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### **Public Contact**

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<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Eight notices mailed to property owners and residents adjacent to the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

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### **Conclusion**

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**Findings and General Plan Goals:** Staff is recommending denial for this project because the Findings (Attachment A) were not made. However, if the Planning Commission is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B).

**Conditions of Approval:** If the appeal is approved by the Planning Commission, staff is recommending Conditions of Approval which are located in Attachment B.

## **Alternatives**

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1. Deny the appeal and uphold the denial of the Tree Removal Permit.
2. Grant the appeal and approve the Tree Removal permit subject to the recommended Conditions of Approval.
3. Grant the appeal and approve the Tree Removal Permit subject to modified Conditions of Approval.

## **Recommendation**

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Recommend Alternative 1.

Prepared by:

Ryan M. Kuchenig  
Project Planner

Reviewed by:

Gerri Caruso  
Principal Planner

Reviewed by:

Trudi Ryan  
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Photos of Subject Tree
- D. Letter denying the Tree Removal Permit dated 6/16/06
- E. Letter of Appeal from the Applicant dated 8/21/06
- F. Letter from Previous Appeal dated 6/30/05



**Recommended Findings – Tree Removal Permit**

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In order to grant a Tree Removal Permit, one or more of the following findings must be met. Staff was unable to make these required findings.

1. The tree is diseased or badly damaged.

*The subject tree is not diseased or damaged, and is in good health.*

2. The tree represents a potential hazard to people, structures or other trees.

*Upon inspections by the City Arborist and Planning staff, it was noted that the roots of the Redwood tree have intruded in the lateral of their sewerline (can be addressed through the trenchless method for installing a new lateral to the main sewer line). The cracks in the rooms along the wall joints could be a result of the tree roots or settling of the ground (a common occurrence) whereby the roots may not be responsible. There is evidence of roots in the atrium but no further investigation has been conducted by the applicant to conclusively determine damage or potential damage to the house foundation by the subject tree's roots.*

3. The tree is in basically sound condition, but restricts the owner's ability to enjoy the reasonable use or economic potential of the property, or unreasonably restricts an adjoining property's use or economic potential of the adjoining property. In the event this is the sole basis for the application, the following criteria shall be used to evaluate the application under this subsection:

- a. The necessity of the requested removal to allow construction of improvements such as additions to existing buildings or incidental site amenities or to otherwise allow economic or reasonable enjoyment of property;
- b. The topography of the land and the effect of the requested action on water retention and diversion or increased flow of surface water;
- c. The approximate age of the tree relative to its average life span;
- d. The potential effect of removal on soil erosion and stability where the tree is located;
- e. Current and future visual screening potential
- f. A property has sufficient landscaping or is over landscaped
- g. Allow removal of overgrown, but healthy, trees.
- h. Any other information the Director of Community Development finds pertinent to the application.

*Staff believes that the Redwood tree is not restricting reasonable use or economic potential of the property or adjoining property. City staff has visited the site and has determined that the tree has a remaining life expectancy of at least another 40-60 years. Staff notes that the tree is not located in an ideal location and could be better located, but the size and health precludes moving the tree. Although damage to the sewer lines of both properties is apparent, alternatives exist to replace the sewer line and save the tree. Staff believes that the subject tree is in good health, and has a significant remaining lifespan that merits preservation.*

**Recommended Conditions of Approval – Tree Removal Permit**

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In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. One replacement tree, a minimum of 15 gallon size, shall be planted anywhere on the property or an in-lieu fee of \$230.00 be paid to the City to allow a tree to be planted in a City park or other public property.
2. The replacement tree shall be planted within 90 days of the tree removal date.